

REMARKS

Claims 1-4, 15, 16, 26, 29 and 30 remain pending. Claims 1, 15, 26, 29 and 30 have been amended. Favorable reconsideration of the application is respectfully requested.

The Examiner objected to the drawings as not showing the "actuator means," and "electronic controller," which the Examiner noted in Claim 1, line 21. These terms have been moved from the body of Claim 1 to the preamble, and Claim 1 has now been rewritten as an improvement claim, so that these elements are not recited as claimed elements, and it is believed that the objections to the drawings can now be withdrawn.

The Examiner objected to the wording of Claims 1, 4 and 29. It is respectfully submitted that the above amendments to such claims cure the informalities noted by the Examiner.

Claims 1-4, 15, 16, 26, 29 and 30 were rejected on the grounds of indefiniteness under 35 U.S.C. § 112. The Examiner indicated that Claim 1 omitted the essential element of "delivering fuel into the air for producing exhaust gases/combusted gases." Claim 1 has been amended to recite "a fuel delivery means for delivering fuel into air to be mixed therewith for combustion" in the preamble of the improvement claim.

The Examiner indicated that in Claim 1 the limitations of and "the electronic controller" and "the actuator means" which the Examiner noted in Claim 1, line 21 did not have antecedent basis. These terms have been moved from the body of Claim 1 to the preamble, and Claim 1 has now been rewritten as an improvement claim, so that these elements are not recited as claimed elements.

The Examiner indicated that in Claim 1 the recitation of "engine having a first operating condition" rendered the claim indefinite. Claim 1 has been amended such that the limitations that define the first operating condition follow the term newly added term "wherein" while the second operating condition is defined in claim 4.

The Examiner indicated that in Claim 30 the limitations of "the controller" and "the actuator means" did not have sufficient antecedent basis. Claim 30 has been amended to delete the term "the controller" and the term "the actuator means" does not exist. Claim 30 now depends from Claim 1, which sets forth the elements of an "actuator means" and an "electronic

controller" in the preamble. It is therefore now believed that the rejection of Claims 1-4, 15, 16, 26, 29 and 30 on the grounds of indefiniteness can now be withdrawn.

Claims 1, 3, and 15 were rejected under 35 U.S.C. §102(b) as anticipated by Yamane (JP 61-164039 A). Independent claim 1 has been amended to more succinctly claim the invention. More particularly the claim now calls for the proportion of the total exhaust flowing through the first turbocharger is variable by variation of the opening and closing of the first exhaust valve relative to the second valve. In stark contrast thereto, the cited reference teaches that the exhaust valves are to open and close at **fixed** points during the combustion cycle as specifically described at page 7, line 19 to page 8, line 6. There is no suggestion that the opening and closing of the exhaust valves can depart from that shown in Figure 3. Accordingly, no variability in terms of the opening of one exhaust valve relative to the other is possible. It is respectfully submitted that anticipation is therefore clearly avoided.

In view of the reliance by the cited reference on bypass valve 9 (wastegate) rather than the exhaust valves to vary the proportion of the total exhaust flow that flows through the first turbocharger, a very different system is disclosed that is incapable of providing the much finer control of exhaust flow through the turbochargers that is afforded by the present invention as claimed. The operation of valve 9 is in fact characterized as merely being used to "prevent overspeed rotation of the high-pressure turbocharger" and to "keep the maximum supercharging pressure down" and would not even be necessary if the high pressure turbocharger were to be matched to the engine (page 7, lines 9-10). It is therefore respectfully submitted that a system that is capable of finely controlling the operation of two turbochargers **without** reliance on a problematic wastegate (specification, paragraph [0002]) cannot reasonably be characterized as obvious in view of the teachings of the cited art.

Claim 2 was rejected under 35 U.S.C. §103(a) as obvious over Yamane in view of Santo. In view of the non-obviousness of the underlying independent claim 1 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

Claims 4, 26 and 29 were rejected under 35 U.S.C. §103(a) on the grounds of obviousness from Yamane in view of Hirabayashi. In view of the non-obviousness of the underlying independent claim 1 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

Claim 16 was rejected under 35 U.S.C. §103(a) as obvious over Yamane in view of either Lovell or Gray. In view of the non-obviousness of the underlying independent claim 1 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

Claim 30 was rejected under 35 U.S.C. §103(a) as obvious over Yamane in view of Hirabayashi and further in view of either Lovell or Gray. In view of the non-obviousness of the underlying independent claim 1 as was argued above, it is respectfully submitted that all claims depending therefrom similarly avoid obviousness.

In light of the above amendments and remarks, applicants earnestly believe the application to now be in condition for allowance and respectfully request that it be passed to issue.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

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